

HAYWARD MUNICIPAL CODE

CHAPTER 4

PUBLIC WELFARE, MORALS AND CONDUCT

SUBJECT MATTER INDEX

ARTICLE 1	PUBLIC NUISANCES
ARTICLE 2	DISORDERLY CONDUCT
ARTICLE 3	GAMES OF CHANCE
ARTICLE 4	ANIMAL CONTROL REGULATIONS
ARTICLE 5	MINORS
ARTICLE 6	THEFT PREVENTION
ARTICLE 7	ALARMS
ARTICLE 8	FIRE ALARMS
ARTICLE 9	CURFEW HOURS FOR MINORS
ARTICLE 10	AGGRESSIVE SOLICITATION ORDINANCE
ARTICLE 11	SOCIAL HOST ACCOUNTABILITY ORDINANCE
ARTICLE 12	SPECTATORS PROHIBITED AT ILLEGAL SPEED CONTESTS OR EXHIBITIONS OF SPEED
ARTICLE 13	FOOD SHARING EVENT ORDINANCE
ARTICLE 14	PARK HOURS ORDINANCE
ARTICLE 15	SOCIAL NUISANCE ORDINANCE
ARTICLE 16	PROHIBITION OF SIMULATED GAMBLING DEVICES
ARTICLE 17	CAMPING AND STORAGE OF PERSONAL PROPERTY

ARTICLE 1

PUBLIC NUISANCES

Section	Subject Matter
4-1.00	PUBLIC NUISANCE, DEFINITION
4-1.01	CERTAIN NUISANCES DEFINED
4-1.02	UNREASONABLE NOISES
4-1.03	APPLICATION AND ENFORCEMENT; DEFINITIONS
4-1.03.1	NOISE RESTRICTION BY DECIBEL
4-1.03.2	UNREASONABLE NOISE NOT MEASURE BY DECIBEL EMANATING FROM PRIVATE PROPERTY
4-1.03.3	NOISE FROM VEHICLES
4-1.03.4	CONSTRUCTION AND ALTERNATION OF STRUCTURES; LANDSCAPING ACTIVITIES
4-1.03.5	CATEGORICAL EXEMPTIONS
4-1.04	EXEMPTIONS AUTHORIZED BY PERMIT – IMMEDIATE COMPLIANCE IMPRACTICAL OR UNREASONABLE
4-1.04.1	EXEMPTIONS AUTHORIZED BY PERMIT – SPECIAL EVENTS ON PUBLIC PROPERTY WITH NOISE PRODUCED BY MECHANICAL OR AMPLIFYING EQUIPMENT
4-1.04.2	CONFLICT OF LAW
4-1.04.3	CUMULATIVE REMEDIES; PENALTIES; ADMINISTRATIVE HEARINGS
4-1.05	SMOKE AND SOOT
4-1.06	FENCES
4-1.07	DUMPING IN STREAMS
4-1.10	STAGNANT WATER
4-1.15	DISMANTLING OR REPAIR OF MOTOR VEHICLES IN THE OPEN IN RESIDENTIAL DISTRICTS. PERMIT REQUIRED

ABANDONED VEHICLE ABATEMENT

Section	Subject Matter
4-1.20	FINDINGS AND DECLARATIONS
4-1.21	DEFINITIONS
4-1.22	"VEHICLE"
4-1.23	"HIGHWAY"
4-1.24	"PUBLIC PROPERTY"
4-1.25	"OWNER OF THE LAND"
4-1.26	"OWNER OF THE VEHICLE"
4-1.27	"ENFORCEMENT OFFICER"
4-1.28	EXCEPTIONS
4-1.29	REGULATIONS NOT EXCLUSIVE
4-1.30	ADMINISTRATION AND ENFORCEMENT
4-1.31	FRANCHISE
4-1.32	ADMINISTRATIVE COSTS
4-1.33	AUTHORITY TO ABATE
4-1.34	NOTICE
4-1.35	REQUEST FOR HEARING
4-1.36	HEARING PROCEDURE
4-1.37	APPEAL
4-1.38	DISPOSAL
4-1.39	NOTICE TO DEPARTMENT OF MOTOR VEHICLES
4-1.40	COLLECTION ON TAX ROLL

WEED, RUBBISH AND LITTER ABATEMENT

(Following sections repealed by Ord. 91-20, adopted August 6, 1991: 4-1.50 [Definitions], 4-1.51 [Abate], 4-1.52 [Enforcement Officer], 4-1.53 [Premises], 4-1.54 [Responsible Person], 4-1.55 [Weeds], 4-1.60 [Enforcement Agency], 4-1.62 [Keeping Sidewalks Clean], 4-1.65 [Nuisance. Authority to Abate], 4-1.66 [Notice], 4-1.67 [Manner of Giving Notice], 4-1.68 [Hearing], 4-1.70 [Abatement by City], 4-1.71 [Account and Report of Cost], 4-1.172 [Notice of Report], 4-1.73 [Hearing and Confirmation], 4-1.74 [Collection on Tax Roll], 4-1.75 [Procedure Not Exclusive] and 4-1.76 [Immediate Danger. Summary Abatement])

(As added by Ord. 91-20, adopted August 6, 1991)

Section	Subject Matter
4-1.50	DEFINITIONS
4-1.51	ABATE
4-1.52	ENFORCEMENT OFFICER
4-1.53	PREMISES
4-1.54	RESPONSIBLE PERSON
4-1.55	WEEDS
4-1.56	FIRE HAZARDS
4-1.57	NUISANCE. AUTHORITY TO ABATE
4-1.58	ABATEMENT NOTICE
4-1.59	MANNER OF GIVING ABATEMENT NOTICE
4-1.60	ADMINISTRATIVE HEARING
4-1.61	ABATEMENT BY CITY
4-1.62	ACCOUNT AND REPORT OF COSTS
4-1.63	NOTICE OF REPORT
4-1.64	CONFIRMATION HEARING
4-1.65	COLLECTION ON TAX ROLL
4-1.66	PROCEDURE NOT EXCLUSIVE
4-1.67	IMMEDIATE DANGER, SUMMARY ABATEMENT

ARTICLE 1

PUBLIC NUISANCES

SEC. 4-1.00 PUBLIC NUISANCE. DEFINITION. Anything which is injurious to health, or is indecent, or offensive to the senses, or an obstruction to the free use of property, so as to interfere with the comfortable or safe enjoyment of life or property of the community, or any portion thereof, or neighborhood therein, is a public nuisance.

SEC. 4-1.01 CERTAIN NUISANCES DEFINED. Certain specified actions or things hereinafter mentioned are hereby declared nuisances. The enumeration thereof shall not be deemed exclusive, but merely illustrative, it being the intent and purpose of this Article to include as nuisances, all actions or things of the character described in Section 4-1.00 hereof.

NOISE REGULATIONS

(As Amended by Ordinance 11-03, adopted March 22, 2011)

SEC 4-1.02 UNREASONABLE NOISES. It shall be unlawful for any person to disturb the peace, quiet, and comfort of the community, or any portion thereof, or neighborhood therein, by creating or causing to be created any unreasonable noises, as hereinafter defined, in the City of Hayward.

SEC. 4-1.03 APPLICATION AND ENFORCEMENT; DEFINITIONS.

- (a) Unless otherwise exempt as provided herein, these regulations shall apply to noises from any and all sources in the City, except noises originating from operations at the Hayward Executive Airport, which shall be regulated in the manner provided for in the Airport Noise Ordinance, and from animals, which shall be administered in accordance with the City's Animal Control Ordinance.
- (b) The regulations allow for different methods of enforcement. The appropriate method of enforcement shall be determined by the Enforcement Officer.
- (c) Definitions. The following words and phrases have the meanings set forth in this subsection, unless the context in which any such word or phrase is used clearly requires another meaning:

dB. "dB" means decibel as herein defined.

dBA. "dBA" means decibels measures on an A-weighted scale, as herein defined in "Noise Level" below.

Decibel. "Decibel" or dB means a unit measure of sound (noise) level relative to a standard reference sound on a logarithmic scale. The decibel level of a given sound is determined as twenty times the logarithm to the base 10 of the ratio of the pressure in micronewtons per square meter of the sound being measured to the standard reference sound pressure of 20 micronewtons per square meter (0.0002 microbar).

Emergency response activities. “Emergency response activities” means activities necessary to restore, preserve, protect, or save lives or property from imminent danger of loss or harm.

Enforcement Officer. The “Enforcement Officer” for purposes of these regulations is the City Manager or her/his designee.

Noise Level. “Noise Level” means the level of noise measured in decibels on the A-weighted scale with a sound level meter satisfying at least the applicable requirements for Type 1 or Type 2 sound level meters as defined in the most recent American National Standard Specifications. The meter shall be set for slow response speed, except that for impulse noises or rapidly varying sound levels, fast response speed may be used. For outside measurements, the microphone shall not be less than four feet above the ground, at least four and one-half feet distant from walls or similar large reflecting surfaces, and shall be protected from the effects of wind noises and other extraneous sounds by the use of screens, shields, or other appropriate devices. For inside measurements, the microphone shall be at least three feet distant from any wall, and the average measurement of at least three microphone positions throughout the room shall be determined.

Property Plane. “Property Plane” means a vertical plane including the property line which determines the property boundaries in space.

Public Property. “Public Property” means property owned by the City of Hayward.

Unreasonable Noise. “Unreasonable Noise” means noise produced by human voice, machine, device, or any combination thereof, that is so loud that it disturbs the peace and quiet of any neighborhood or impinges upon the quiet enjoyment of property, such that the average person of normal sensitivity would find the noise objectionable.

SEC. 4-1.03.1 NOISE RESTRICTION BY DECIBEL.

(a) Residential Property Noise Limits.

1. No person shall produce or allow to be produced by human voice, machine, device, or any combination of same, on residential property, a noise level at any point outside of the property plane that exceeds seventy (70) dBA between the hours of 7:00 a.m. and 9:00 p.m. or sixty (60) dBA between the hours of 9:00 p.m. and 7:00 a.m.
2. No person shall produce or allow to be produced by human voice, machine, device, or any combinations of same, on multifamily residential property, a noise level more than sixty (60) dBA three feet from any wall, floor, or ceiling inside any dwelling unit on the same property, when the windows and doors of the dwelling unit are closed, except within the dwelling unit in which the noise source or sources may be located.

- (b) Commercial and Industrial Property Noise Limits. Except for commercial and industrial property abutting residential property, no person shall produce or allow to be produced by human voice, machine, device, or any other combination of same, on commercial or industrial property, a noise level at any point outside of the property plane that exceeds seventy (70) dBA. Commercial and industrial property that abuts residential property shall be subject to the residential property noise limits set forth in subsections (a)(1) and (2) above.

- (c) Public Property Noise Limits. Except as otherwise provided in these regulations, no person shall produce or allow to be produced on public property, by human voice, machine, device, or any combination of same, a noise level that exceeds sixty (60) dBA at a distance of 25 feet or more from the source. Noise from activities of the City of Hayward is exempted from these regulations.
- (d) When the Enforcement Officer responds to an initial complaint of unreasonable noise and perceives activities or circumstances that violate Section 4-1.03.1, the Enforcement Officer may issue a written warning or a citation, specifying those activities or circumstances that constitute a violation of these regulations.

SEC. 4-1.03.2 UNREASONABLE NOISE NOT MEASURED BY DECIBEL EMANATING FROM PRIVATE PROPERTY. This section contains a separate and independent method of determining whether a violation of the noise regulations has occurred. No person shall willfully or negligently make, produce or allow to be produced, at any time, any unreasonable noise. Enforcement of this section shall not require the use of a sound level meter.

- (a) A violation of this section shall be proven by reference to one or more of the following criteria:
 - 1. The volume or loudness of the noise (based on the distance away from the source at which the noise can be clearly heard);
 - 2. The pitch or frequency (i.e., vibrating sound waves) of the noise;
 - 3. Whether the nature of the noise is usual or unusual;
 - 4. Whether the origin of the noise is natural (i.e., caused or produced by a person or persons) or unnatural;
 - 5. The tonal or rhythmic quality of the noise;
 - 6. Whether the noise is recurrent, intermittent, or constant;
 - 7. Whether the noise is from a commercial or noncommercial activity;
 - 8. If the noise is from a commercial activity, whether the particular use or activity is permitted in the area, and whether the noise could be reasonably expected to derive from the use or activity;
 - 9. Whether the noise is a necessary attribute of a particular use or activity (i.e., routine solid waste collection or a properly functioning mechanical device);
 - 10. The proximity of the noise to residential sleeping facilities;
 - 11. The proximity of the noise to offices or places of work;
 - 12. The number of persons affected, or the density of inhabitation of the area;
 - 13. The nature or zoning of the area within which the noise emanates or in which the impact of the noise occurs;
 - 14. The amount and type of background noise, if any;
 - 15. The time of the day or night the noise occurs (indicating the relationship of the noise to the normal activities that occur at a given time);
 - 16. The day of the week; and
 - 17. The duration of the noise.
- (b) When the Enforcement Officer responds to an initial complaint of unreasonable noise and perceives activities or circumstances that violate Section 4-1.03.2, the Enforcement Officer may issue a written warning to any individual exercising or claiming control of the property or assuming responsibility of the activities or circumstances.

- (c) If, within seventy-two (72) hours following the issuance of a written warning, a second complaint concerning unreasonable noise at the same location is received, then the Enforcement Officer may ask the complainants to sign a statement indicating the manner in which the complainants were disturbed and agreeing to appear as a witness at an administrative hearing or trial. If the Enforcement Officer obtains signed statements from at least two complainants who do not reside at the same address, then the Enforcement Officer may issue a citation to a resident of the property upon which the activities or circumstances exist or to any individual exercising or claiming control of the property or assuming responsibility for the activities or circumstances.

SEC. 4-1.03.3 NOISE FROM VEHICLES.

- (a) No person shall use or operate any radio, tape player, record player, compact disc player, or any similar device in or on a vehicle located on any public property within the City in a manner that is audible to a person of normal hearing sensitivity more than twenty-five feet from such vehicle, nor shall any person use or operate any such device on or in a vehicle located on private property in a manner that renders the device audible to a person of normal hearing sensitivity more than twenty-five feet from the vehicle or beyond the property line of such private property, whichever is greater. Noise from a radio, tape player, record player, compact disc player, or other similar device in or on a vehicle located on a public highway shall be regulated in the manner provided for by the California Vehicle Code.
- (b) Vehicle horns, or other devices primarily intended to create a loud noise for warning purposes, shall not be used when a situation endangering life, health or property is not imminent.

SEC. 4-1.03.4 CONSTRUCTION AND ALTERATION OF STRUCTURES;

LANDSCAPING ACTIVITIES. Unless otherwise provided pursuant to a duly-issued permit or a condition of approval of a land use entitlement, the construction, alteration, or repair of structures and any landscaping activities, occurring between the hours of 10:00 a.m. and 6:00 p.m. on Sundays and holidays, and 7:00 a.m. and 7:00 p.m. on other days, shall be subject to the following:

- (a) No individual device or piece of equipment shall produce a noise level exceeding eighty-three (83) dBA at a distance of twenty-five (25) feet from the source. If the device or equipment is housed within a structure on the property, the measurement shall be made outside the structure at a distance as close as possible to twenty-five (25) feet from the equipment.
- (b) The noise level at any point outside of the property plane shall not exceed eighty-six (86) dBA.
- (c) During all other times, the decibel levels set forth in Section 4-1.03.1 shall control.

SEC. 4-1.03.5 CATEGORICAL EXEMPTIONS. The following activities or sources of noise are exempt from the provisions of these regulations:

- (a) Alarms and Warning Devices: Aural alarms or warning devices, including but not limited to fire alarms, burglar alarms, and emergency vehicle sirens and air horns. However, if a standard or minimum noise level is prescribed for particular type of aural alarm or warning device by the laws or regulations of the State of California, the noise emitted from such alarm or warning device shall not exceed such standard or minimum level by more than three (3) dBA.
- (b) Emergency Response Activities: Noise from emergency response activities.
- (c) Events at Which No Mechanical or Amplifying Equipment is Employed: Noise from events conducted lawfully and without the use of sound of any kind that is mechanically produced or amplified or focused by any means.
- (d) Audio Equipment Used by Public Safety Officers: Noise from audio equipment used or operated by public safety officers in the performance of their duties.
- (e) Generators Required for Medical Purposes; Power Outages: Noise from generators required for medical purposes or during power outages.

SEC. 4-1.04 EXEMPTIONS AUTHORIZED BY PERMIT - IMMEDIATE COMPLIANCE IMPRACTICAL OR UNREASONABLE.

- (a) A conditional noise permit may be granted to temporarily exempt a particular source of noise from one or more provisions of these regulations if the applicant can show that, notwithstanding the application of all available noise abatement techniques, the immediate compliance with the requirements of these regulations would be impractical or unreasonable. The term of a noise permit shall not exceed six months, provided that the term may be renewed upon a further showing of good cause and that any extension is conditioned upon a schedule of compliance with the requirements of these noise regulations, including the details of methods to effectuate that compliance.
- (b) Applications for a conditional noise permit shall be made to the department assigned by the City Manager to process such permits upon a form provided therefor. The City Manager, or his or her designee, may deny or approve an application, subject to such conditions or limitations as deemed advisable and taking into consideration the purpose and intent of these regulations.

SEC. 4-1.04.1 EXEMPTIONS AUTHORIZED BY PERMIT- SPECIAL EVENTS ON PUBLIC PROPERTY WITH NOISE PRODUCED BY MECHANICAL OR AMPLIFYING EQUIPMENT.

- (a) The City Manager, or his or her designee, may issue a permit exempting from any special event conducted on public property at which noise is produced by any mechanical or amplifying equipment which will, or is likely to, exceed the noise limits imposed by these regulations, if it is determined that:
 1. The event is of interest to a substantial number of persons residing in the City;

2. The event is open to all persons residing in the City, subject only to the payment of a reasonable fee, if any, by those persons attending the event; and
 3. Compliance with these regulations would unreasonably interfere with the conduct of the event.
- (b) Applications for a permit under this subsection shall be filed at least 14 days prior to the date the special event is to take place. Such application shall be in the form prescribed by the City Manager and shall contain the name of the person or persons sponsoring the event, a description of the event, the date and times the event is scheduled to take place, and such other information as may be required.
 - (c) Following the filing of an application for a permit under this section, the City Manager, or his or her designee, shall issue a permit granting such exemption if it is found that such special event complies with all the requirements of this subsection. However, reasonable conditions may be imposed on the conduct of the special event, including limitations on the dates and times during which the event may take place, limitations on the level of noise produced at the event, and a requirement that the permittee take reasonable measures as may be prescribed to mitigate the adverse effect of the noise produced at the event.
 - (d) If a separate permit for an activity covered by this subsection is required by City policy or practice, then the applicant shall not be required to obtain a noise permit hereunder.

SEC. 4-1.04.2 CONFLICT OF LAW. The requirements of these Noise Regulations do not supersede any obligations and/or requirements imposed under the City's Zoning Ordinance. In the event of a conflict between these regulations and the Zoning Ordinance, the more restrictive provision controls.

SEC. 4-1.04.3 CUMULATIVE REMEDIES; PENALTIES; ADMINISTRATIVE HEARINGS.

- (a) Any person who violates any provision of these noise regulations is guilty of a separate offense for each day or part of a day during which the violation is committed, continued, or permitted. The remedies provided in the noise regulations shall be cumulative and in addition to any other procedures provided in the Hayward Municipal Code or by state law for the abatement of any of the conditions described herein, and abatement hereunder shall not prejudice or affect any other action, civil or criminal, for the maintenance of any such condition.
- (b) In addition to all other remedies or penalties provided by law, a violation of these regulations is punishable by administrative penalties as set forth in Chapter 1, Article 7 of the Hayward Municipal Code.
- (c) Any person subject to administrative penalties pursuant to these regulations shall have the right to request an administrative hearing in accordance with Hayward Municipal Code Sections 1-7.07 through 1-7.10, inclusive. The right to judicial review shall be governed by Section 1-7.13 Administrative Citation, Right to Judicial

Review, of the Hayward Municipal Code. The administrative penalties imposed by this section do not preclude other potential civil actions or criminal prosecution under any other provision of law.

SEC. 4-1.05 SMOKE AND SOOT. It shall be unlawful for any person to cause, suffer or allow dense smoke to be discharged from any building, place, premises, stationary or locomotive engine or motor vehicle within the City of Hayward, or to cause, suffer or allow soot, ashes, or cinders to be discharged from any such facility to such an extent that such soot, ashes, or cinders are blown upon or fall upon adjacent property.

SEC. 4-1.06 FENCES. It shall be unlawful for any person to cause, suffer or allow any fence, or other structure in the nature of a fence, unnecessarily exceeding six (6) feet in height, to be erected or maintained along or near the property lines of any residence lot in the City of Hayward. Such a fence or structure shall be deemed a private nuisance.

SEC. 4-1.07 DUMPING IN STREAMS. It shall be unlawful for any person to dump any junk, refuse, garbage, dirt or any other material in any stream, creek, watercourse or stream bed, or within the banks of the same, in the City of Hayward, without written permission so to do from the Director of Public Works.

SEC. 4-1.10 STAGNANT WATER. It shall be unlawful for any person to maintain any cesspool, water holes, unsealed water tanks, or other structure or condition upon any premises owned, leased or used by him within the City of Hayward, having a tendency to breed, promote, invite or maintain mosquitoes, and the same is hereby declared to be a public nuisance.

It shall be the duty of the Chief of Police to investigate all premises and to notify any such person maintaining such nuisance to abate the same within ten (10) days and on failure of compliance to summarily abate the same.

SEC. 4-1.15 DISMANTLING OR REPAIR OF MOTOR VEHICLES IN THE OPEN IN RESIDENTIAL DISTRICTS. PERMIT REQUIRED. It shall be unlawful for any person to repair or dismantle in the open in any residential district of the City of Hayward, any automobile, boat, or other vehicle or conveyance without first having obtained a permit to do so.

Application for a permit shall be made to the Police Department on forms provided for such purpose. Applicant shall furnish all the following:

Name and address of applicant; address at which proposed work is to be done; written consent of owner of premises if other than applicant; description of conveyance to be dismantled or repaired and a statement of work to be done; estimated time necessary to complete the work; and such other information as may be required by said department.

All applications shall be referred to the Fire Chief for review prior to the granting of any permit. Where such work can be done without creating a police problem or a fire hazard a permit shall be granted for the doing of the work described in said application.

The permit so granted shall specify the time period in which the work shall be accomplished, which time period shall not be more than fifteen (15) days. Work shall be completed within the time limit specified, or any extension granted for reasonable cause shown.

Upon completion of the work authorized, applicant shall clear the work site of all debris, oil, grease, gasoline, paints, lacquer, or other combustible material, and leave it in such a condition that no hazard to persons or property shall remain.

Applicants for dismantling or repair permits shall be required, as a condition to the granting of the permit, to authorize the Police Department to remove and store at owner's expense, any conveyance and/or parts thereof where dismantling or repair is not completed within the time granted therefor.

The term "repair" as used herein shall not include minor adjustments or the replacement of parts where such adjustments or replacement may reasonably be expected to be accomplished within a seventy-two (72) hour period. No permit shall be required for such minor adjustments or replacement. (As added by Ordinance No. 62-040 C.S., Adopted June 19, 1962)

ABANDONED VEHICLE ABATEMENT

(Added by Ordinance No. 73-037 C.S., Adopted December 18, 1973.)

SEC. 4-1.20 FINDINGS AND DECLARATIONS. In addition to and in accordance with the determination made and the authority granted by the State of California under Section 22660 of the Vehicle Code to remove abandoned, wrecked, dismantled or inoperative vehicles or parts thereof as public nuisances, the City Council hereby makes the following findings and declarations.

The accumulation and storage of abandoned, wrecked, dismantled, or inoperative vehicles or parts thereof on private or public property not including highways is hereby found to create a condition tending to reduce the value of private property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and insects and to be injurious to the health, safety and general welfare. Therefore, the presence of an abandoned, wrecked, dismantled or inoperative vehicle or parts thereof, on private or public property not including highways, except as expressly hereinafter permitted, is hereby declared to constitute a public nuisance which may be abated as such in accordance with the provisions of these regulations.

SEC. 4-1.21 DEFINITIONS. For purposes of this portion of this Article, certain words and phrases are defined and certain provisions are to be construed as herein set out, unless it shall be apparent from the context that a different meaning is intended.

SEC. 4-1.22 "VEHICLE". "Vehicle" shall mean a device by which any person or property may be propelled, moved, or drawn upon a highway, except a device moved by human power or used exclusively upon stationary rails or tracks.

SEC. 4-1.23 "HIGHWAY". "Highway" shall mean a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. Highway includes street.

SEC. 4-1.24 "PUBLIC PROPERTY". "Public Property" shall not include "highway".

SEC. 4-1.25 "OWNER OF THE LAND". "Owner of the land" shall mean the owner of the land on which the vehicle, or parts thereof, is located, as shown on the last equalized assessment roll.

SEC. 4-1.26 "OWNER OF THE VEHICLE". "Owner of the Vehicle" shall mean the last registered owner and legal owner of record.

SEC. 4-1.27 "ENFORCEMENT OFFICER". "Enforcement Officer" shall mean the Police Chief, and shall include any official or officials in the Police Department duly appointed by the Police Chief or City Manager to administer the provisions hereof.

SEC. 4-1.28 EXCEPTIONS. The provisions herein shall not apply to:

- (a) A vehicle, or parts thereof, which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property; or
- (b) A vehicle, or parts thereof, which is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, a junk dealer, or when such storage or parking is necessary to the operation of a lawfully conducted business or commercial enterprise.

Nothing in this section shall authorize the maintenance of a public or private nuisance as defined under provisions of law other than Chapter 10 (commencing with Section 22650) of Division 11 of the Vehicle Code and these provisions.

SEC. 4-1.29 REGULATIONS NOT EXCLUSIVE. The provisions herein are not the exclusive regulations of abandoned, wrecked, dismantled or inoperative vehicles within the City. They shall supplement and be in addition to the other regulatory codes, statutes, and ordinances heretofore or hereafter enacted by the City, the State, or any other legal entity or agency having jurisdiction.

SEC. 4-1.30 ADMINISTRATION AND ENFORCEMENT. Except as otherwise provided herein, the provisions hereof shall be administered and enforced by the Enforcement Officer. In the enforcement of these provisions such officer and his deputies may enter upon private or public property to examine a vehicle or parts thereof, or obtain information as to the identity of a vehicle declared to be a nuisance pursuant to these provisions.

SEC. 4-1.31 FRANCHISE. When the City Council has contracted with or granted a franchise to any person or persons, such person or persons shall be authorized to enter upon private property or public property to remove or cause the removal of a vehicle or parts thereof declared to be a nuisance pursuant to these provisions.

SEC. 4-1.32 ADMINISTRATIVE COSTS. The City Council shall from time to time determine and fix an amount to be assessed as administrative costs (excluding the actual cost of removal of any vehicle or parts thereof under these provisions.)

SEC. 4-1.33 AUTHORITY TO ABATE. Upon discovering the existence of an abandoned, wrecked, dismantled, or inoperative vehicle, or parts thereof, on private property or

public property within the City, the Enforcement Officer shall have the authority to cause the abatement and removal thereof in accordance with the procedure prescribed herein.

SEC. 4-1.34 NOTICE. A 10-day notice of intention to abate and remove the vehicle, or parts thereof, as a public nuisance shall be mailed by registered or certified mail to the owner of the land and to the owner of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership. The notices of intention shall be in substantially the following forms:

NOTICE OF INTENTION TO ABATE AND REMOVE AN ABANDONED,
WRECKED, DISMANTLED, OR INOPERATIVE VEHICLE OR PARTS
THEREOF AS A PUBLIC NUISANCE

(Name and address of owner of the land)

As owner shown on the last equalized assessment roll of the land located at (address), you are hereby notified that the undersigned pursuant to Sec. 4-1.33 of the City of Hayward Municipal Code has determined that there exists upon said land an (or parts of an) abandoned, wrecked, dismantled or inoperative vehicle registered to _____, license number _____, which constitutes a public nuisance pursuant to the provisions of Article 1 of Chapter 4 of the City of Hayward Municipal Code.

You are hereby notified to abate said nuisance by the removal of said vehicle (or said parts of a vehicle) within 10 days from the date of mailing of this notice, and upon your failure to do so the same will be abated and removed by the City and the costs thereof, together with administrative costs, assessed to you as owner of the land on which said vehicle (or said parts of a vehicle) is located.

As owner of the land on which said vehicle (or said parts of a vehicle) is located, you are hereby notified that you may, within 10 days after the mailing of this notice of intention, request a public hearing and if such a request is not received by the Enforcement Officer within such 10-day period, the Enforcement Officer shall have the authority to abate and remove said vehicle (or said parts of a vehicle) as a public nuisance and assess the costs as aforesaid without a public hearing. You may submit a sworn written statement within such 10-day period denying responsibility for the presence of said vehicle (or said parts of a vehicle) on said land, with your reasons for denial, and such statement shall be construed as a request for hearing at which your presence is not required. You may appear in person at any hearing requested by you or the owner of the vehicle or, in lieu thereof, may present a sworn written statement as aforesaid in time for consideration at such hearing.

Notice Mailed _____ s/
(date) (Enforcement Officer)

NOTICE OF INTENTION TO ABATE AND REMOVE AN ABANDONED,
WRECKED, DISMANTLED OR INOPERATIVE VEHICLE OR PARTS
THEREOF AS A PUBLIC NUISANCE

(Name and address of last registered and/or legal owner of record of vehicle -- notice should be given to both if different)

As last registered (and/or legal) owner of record of (description of vehicle - make, model, license, etc.), you are hereby notified that the undersigned pursuant to Sec. 4-1.33 of the City of Hayward Municipal Code has determined that said vehicle (or parts of a vehicle) exists as an abandoned, wrecked, dismantled or inoperative vehicle at (describe location on public or private property) and constitutes a public nuisance pursuant to the provisions of Article 1 of Chapter 4 of the City of Hayward Municipal Code.

You are hereby notified to abate said nuisance by the removal of said vehicle (or said parts of a vehicle) within 10 days from the date of mailing of this notice.

As registered (and/or legal) owner of record of said vehicle (or said parts of a vehicle), you are hereby notified that you may, within 10 days after the mailing of this notice of intention, request a public hearing and if such a request is not received by the Enforcement Officer within such 10-day period, the Enforcement Officer shall have the authority to abate and remove said vehicle (or said parts of a vehicle) without a hearing.

Notice Mailed _____ s/
(date) (Enforcement Officer)

SEC. 4-1.35 REQUEST FOR HEARING. Upon request by the owner of the vehicle or owner of the land received by the Enforcement Officer within 10 days after the mailing of the notices of intention to abate and remove, a public hearing shall be held by the Enforcement Officer on the question of abatement and removal of the vehicle or parts thereof as an abandoned, wrecked, dismantled or inoperative vehicle, and the assessment of the administrative costs and the cost of removal of the vehicle or parts thereof against the property on which it is located.

If the owner of the land submits a sworn written statement denying responsibility for the presence of the vehicle on his land within such 10 day period, said statement shall be construed as a request for a hearing which does not require his presence. Notice of the hearing shall be mailed, by registered or certified mail, at least 10 days before the hearing to the owner of the land and to the owner of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership. If such a request for hearing is not received within said 10 days after mailing of the notice of intention to abate and remove, the City shall have the authority to abate and remove the vehicle or parts thereof as a public nuisance without holding a public hearing.

SEC. 4-1.36 HEARING PROCEDURE. All hearings under these provisions shall be held before the Enforcement Officer who shall hear all facts and testimony it deems pertinent. Said facts and testimony may include testimony on the condition of the vehicle or parts thereof and the circumstances concerning its location on the said private property or public property. The Enforcement Officer shall not be limited by the technical rules of evidence. The owner of the land may appear in person at the hearing or present a sworn written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with his reasons for such denial.

The Enforcement Officer may impose such conditions and take such other action as he deems appropriate under the circumstances to carry out the purpose of these provisions. He may delay the time for removal of the vehicle, or parts thereof if, in his opinion, the circumstances justify it. At the conclusion of the public hearing, the Enforcement Officer may find that a vehicle

or parts thereof has been abandoned, wrecked, dismantled, or is inoperative on private or public property and order the same removed from the property as a public nuisance and disposed of as hereinafter provided and determine the administrative costs and the cost of removal to be charged against the owner of the land. The order requiring removal shall include a description of the vehicle or parts thereof and the correct identification number and license number of the vehicle, if available at the site.

If it is determined at the hearing that the vehicle was placed on the land without the consent of the owner of the land and that he has not subsequently acquiesced in its presence, the Enforcement Officer shall not assess the costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect such costs from such owner of the land.

If the owner of the land submits a sworn written statement denying responsibility for the presence of the vehicle on his land but does not appear, or if an interested party makes a written presentation to the Enforcement Officer but does not appear, he shall be notified in writing of the decision.

SEC. 4-1.37 APPEAL. Any interested party may appeal the decision of the Enforcement Officer by filing a written notice of appeal with the said Enforcement Officer within five days after its decision.

Such appeal shall be heard by the City Council which may affirm, amend or reverse the order or take other action deemed appropriate.

The City Clerk shall give written notice of the time and place of the hearing to the appellant and those persons specified in Sec. 4-1.34.

In conducting the hearing the City Council shall not be limited by the technical rules of evidence.

SEC. 4-1.38 DISPOSAL. Five days after adoption of the order declaring the vehicle or parts thereof to be a public nuisance, five days from the date of mailing of notice of the decision if such notice is required by Section 4-1.36, or 15 days after such action of the governing body authorizing removal following appeal, the vehicle or parts thereof may be disposed of by removal to a scrap yard or automobile dismantler's yard. After a vehicle has been removed it shall not thereafter be reconstructed or made operable.

SEC. 4-1.39 NOTICE TO DEPARTMENT OF MOTOR VEHICLES. Within five days after the date of removal of the vehicle or parts thereof, notice shall be given to the Department of Motor Vehicles identifying the vehicle or parts thereof removed. At the same time there shall be transmitted to the Department of Motor Vehicles any evidence of registration available, including registration certificates, certificates of title and license plates.

SEC. 4-1.40 COLLECTION ON TAX ROLL. If the administrative costs and the cost of removal which are charged against the owner of a parcel of land pursuant to Section 4-1.36 are not paid within 30 days of the date of the order, or the final disposition of an appeal therefrom, such costs shall be assessed against the parcel of land pursuant to Section 38773.5 of the Government Code and shall be transmitted to the tax collector for collection. Said assessment shall have the same priority as other City taxes.

WEED, RUBBISH AND LITTER ABATEMENT

(Added by Ord. No. 66-036 C.S., adopted September 20, 1966 and repealed by Ord. 91-20, adopted August 6, 1991)

SEC. 4-1.50 DEFINITIONS.

(Repealed by Ord. 91-20, adopted August 6, 1991)

SEC. 4-1.51 ABATE.

(Repealed by Ord. 91-20, adopted August 6, 1991)

SEC. 4-1.52 ENFORCEMENT OFFICER.

(Repealed by Ord. 91-20, adopted August 6, 1991)

SEC. 4-1.53 PREMISES.

(Repealed by Ord. 91-20, adopted August 6, 1991)

SEC. 4-1.54 RESPONSIBLE PERSON.

(Repealed by Ord. 91-20, adopted August 6, 1991)

SEC. 4-1.55 WEEDS.

(Repealed by Ord. 91-20, adopted August 6, 1991)

SEC. 4-1.60 ENFORCEMENT AGENCY.

(Repealed by Ord. 91-20, adopted August 6, 1991)

SEC. 4-1.62 KEEPING SIDEWALKS CLEAN.

(Repealed by Ord. 91-20, adopted August 6, 1991)

SEC. 4-1.65 NUISANCE. AUTHORITY TO ABATE.

(Repealed by Ord. 91-20, adopted August 6, 1991)

SEC. 4-1.66 NOTICE.

(Repealed by Ord. 91-20, adopted August 6, 1991)

SEC. 4-1.67 MANNER OF GIVING NOTICE.

(Repealed by Ord. 91-20, adopted August 6, 1991)

SEC. 4-1.68 HEARING.

(Repealed by Ord. 91-20, adopted August 6, 1991)

SEC. 4-1.70 ABATEMENT BY CITY.

(Repealed by Ord. 91-20, adopted August 6, 1991)

SEC. 4-1.71 ACCOUNT AND REPORT OF COST.

(Repealed by Ord. 91-20, adopted August 6, 1991)

SEC. 4-1.72 NOTICE OF REPORT.

(Repealed by Ord. 91-20, adopted August 6, 1991)

SEC. 4-1.73 HEARING AND CONFIRMATION.

(Repealed by Ord. 91-20, adopted August 6, 1991)

SEC. 4-1.74 COLLECTION ON TAX ROLL.

(Repealed by Ord. 91-20, adopted August 6, 1991)

SEC. 4-1.75 PROCEDURE NOT EXCLUSIVE.

(Repealed by Ord. 91-20, adopted August 6, 1991)

SEC. 4-1.76 IMMEDIATE DANGER, SUMMARY ABATEMENT.

(Repealed by Ord. 91-20, adopted August 6, 1991)

(Sections 4-1.50 through 4-1.67 as added by Ord. 91-20, adopted August 6, 1991)

SEC. 4-1.50 DEFINITIONS. For the purposes of this portion of this Article, certain words and phrases are defined and certain provisions are to be construed as herein set out, unless it shall be apparent from the context that a different meaning is intended.

SEC. 4-1.51 ABATE. 'Abate' shall mean to repair, replace, remove, destroy or otherwise remedy the condition in question by such means and in such manner and to such an extent as is necessary in the interest of the general health, safety and welfare of the community as determined by the enforcement officer.

SEC. 4-1.52 ENFORCEMENT OFFICER. 'Enforcement officer' shall mean the Community Preservation Manager or other employee or official appointed and designated by the City Manager to administer the provisions of this Article.

SEC. 4-1.53 PREMISES. 'Premises' shall mean any building, lot, parcel, real estate, or land or portion of land whether improved or unimproved including but not limited to front yards, side yards, back yards, driveways, walkways, and adjacent sidewalks and planter strips.

SEC. 4-1.54 RESPONSIBLE PERSON. 'Responsible person' shall mean the owner of any premises or any agent, lessee, or other person occupying or having charge or control of same.

SEC. 4-1.55 WEEDS. 'Weeds' shall include any of the following growing upon streets, alleys, sidewalks, or private property in the City:

- (a) Weeds which bear or may bear seeds of a downy or wingy nature;
- (b) Weeds and indigenous grasses which may attain such large growth as to become, when dry, a fire menace to adjacent improved property;
- (c) Weeds which are otherwise noxious or dangerous;

- (d) Poison oak and poison ivy when the conditions of growth are such as to constitute a menace to the public health; and
- (e) Accumulations of garden refuse, cuttings, stubble, brush, litter, or other flammable material which endangers the public safety by creating a fire hazard.

SEC. 4-1.56 FIRE HAZARDS. 'Fire hazards' shall mean any thing or act which increases or may cause an increase of the hazard or menace of fire to a greater degree than that customarily recognized as normal by persons in the public service regularly engaged in preventing, suppressing or extinguishing fire; or any thing or act which may obstruct, hinder or interfere with the operations of the Fire Department or the egress of occupants in the event of fire.

SEC. 4-1.57 NUISANCE. AUTHORITY TO ABATE. It shall be unlawful for any responsible person to keep or maintain premises under his or her control in a condition detrimental to public health, safety, or general welfare. Each of the following conditions is hereby declared to be detrimental to public health, safety, or general welfare and thus constitutes a public nuisance:

- (a) The maintenance of premises in such a manner as to permit the premises to become so defective, unsightly, or in such condition of deterioration or disrepair that the same causes appreciable harm or is materially detrimental to proximal properties or improvements;
- (b) The maintenance of premises so out of harmony or conformity with the landscaping and maintenance standards of adjacent properties, as to cause substantial diminution in the enjoyment, use or property value of such adjacent properties;
- (c) The existence of any accumulation of waste paper, hay, grass, straw, weeds, litter, or combustible or flammable waste material, waste petroleum products, garbage, or rubbish of any kind upon the premises;
- (d) The existence of any garbage or rubbish upon the premises contrary to the definitions and provisions of Article 1, Chapter 5 of this Code or any amendments thereto or replacements thereof;
- (e) The existence of any branches or foliage which interferes with visibility on, or free use of, or access to, any portion of any street improved for vehicular or pedestrian travel or which interferes with access to any hydrant, alarm box, standpipe, sprinkler system connection or any other appliance or facility provided for fire protection purposes;
- (f) The existence of any dirt or litter on a paved sidewalk or a planter strip in front of the premises. Sweepings from the sidewalk shall not be swept or otherwise made or allowed to go into the gutter or roadway, but shall be disposed of in receptacles maintained on the premises as required for the disposal of garbage or in such other manner as complies with procedures adopted for purposes of recycling.

- (g) The existence on any premises of any unused and abandoned open pipe, well, or excavation, building foundation, or buildings which are abandoned, or boarded up, partially destroyed, or unfinished and not properly secured;
- (h) The existence of unused building materials and packing boxes when stored in yards. Nothing herein shall prevent such storage when done in conjunction with a construction project for which a building permit has been issued and which is being prosecuted diligently to completion;
- (i) The existence of any fence or other structure or thing on the premises abutting or fronting upon any public street, sidewalk or place, which is in a sagging, leaning, fallen, decayed, or other dilapidated or unsafe condition;
- (j) Any other condition on or use of the premises which constitutes a public nuisance as defined by state law or which may be declared such by other ordinances of the City.

SEC. 4-1.58 ABATEMENT NOTICE. The enforcement officer shall cause the responsible person to be notified of a violation of this ordinance and shall direct the responsible person to abate the violation or appear before the enforcement officer to show cause why the violation should not be abated by the City at the property owner's expense.

The notice shall be substantially in the following form:

NOTICE TO REMOVE WEEDS, RUBBISH, AND LITTER

(Name and address of person notified)

As owner, agent, lessee or other person occupying or having charge or control of the building, lot or premises at _____, you are hereby notified that the undersigned has determined that there exists upon or adjoining said premises the following condition contrary to the provisions of Section 4-1.57: (subsection number and description of condition)

You are hereby notified that by _____, you must abate the above condition(s) to the satisfaction of the undersigned or request an administrative hearing to show cause, if any you have why said condition should not be abated by the City and the expenses thereof charged to your property and if not paid thereafter made a lien upon the real property described above. Abatement is to be accomplished in the following manner:

Dated: _____

By _____

SEC. 4-1.59 MANNER OF GIVING ABATEMENT NOTICE. A copy of the notice provided for in Section 4-1.58 shall be sent to the property owner and may be sent to any other responsible person. The notice shall be sent by regular, first-class mail, postage prepaid and addressed as follows:

To the Owner: As the owner's name and address appears on the last equalized assessment roll of the County of Alameda or as known to the enforcement officer.

To Any Other responsible person: As the responsible person's name and address are known to the enforcement officer or the person authorized by him or her to give notice.

Service shall be deemed complete at the time notice is deposited in the mail. The failure of any owner or any other responsible person to receive notice shall not affect the validity of any proceedings taken hereunder.

SEC. 4-1.60 ADMINISTRATIVE HEARING. At the time fixed for the administrative hearing, if one is requested, the enforcement officer shall consider all relevant evidence, objections, or protests offered on behalf of the owner or responsible person which tend to show why the condition should not be abated and the expense thereof charged to the owner or responsible person as a civil debt and if not paid thereafter made a lien upon the premises. The enforcement officer may also consider rebuttal evidence offered by the City. The hearing may be continued from time to time.

If at the conclusion of the hearing the enforcement officer is satisfied that the condition exists and concludes that it should be abated, he or she shall so advise the persons attending the hearing, either orally or in writing.

SEC. 4-1.61 ABATEMENT BY CITY. If the nuisance is not abated as ordered within the abatement period, the enforcement officer shall cause the same to be abated by such City employees or private contractors as the enforcement officer may authorize to enter upon the premises. The cost, including administrative expenses, of abating the nuisance shall be billed to the property owner and shall become due and payable thirty (30) days thereafter. The term "administrative expenses" shall include, but not be limited to the following: personnel costs, both direct and indirect; costs incurred in documenting the nuisance; the actual expenses and costs of the City in the preparation and dissemination of notices, specifications, and contracts and in inspecting the work; and the costs of printing and mailing the notices required hereunder.

SEC. 4-1.62 ACCOUNT AND REPORT OF COSTS. The enforcement officer shall keep an account of the cost of abating the nuisance and embody an account in a report and assessment list to the City Council, which shall be filed with the City Clerk. The assessment list shall refer to each separate lot or parcel of land by a description that is sufficient to identify the lot or parcel together with the expense proposed to be assessed against each separate lot or parcel of land.

SEC. 4-1.63 NOTICE OF REPORT. The City Clerk shall post a copy of the report and assessment list on the bulletin board designated for the posting of agendas for City Council meetings together with a notice of filing thereof and of the time and place when and where it will be submitted to the City Council for hearing and confirmation, notifying property owners that they may appear at such time and place and object to any matter contained therein. A like notice shall also be published twice in a newspaper of general circulation that is published and circulated within the City. The posting and first publication of the notice shall be made and completed at least 10 days before the time the report is considered by the City Council.

SEC. 4-1.64 CONFIRMATION HEARING. At the time and place fixed for receiving and considering the annual report, the City Council shall hear the same together with any objections which may be raised by any person liable to be assessed for the work of abating the

nuisance, and the enforcement officer shall attend the meeting with his or her record thereof, and upon the hearing, the Council may make the modifications in the proposed assessments as it may deem necessary, after which the report and assessment list shall be confirmed by resolution.

The amount of the cost of abating the nuisance, including administrative expenses, shall constitute special assessments against the respective lots or parcels of land and after being confirmed shall constitute a lien on the property for the amount of the assessments until paid.

SEC. 4-1.65 COLLECTION ON TAX ROLL. After confirmation of the report, a copy shall be given to the City Director of Finance who may receive the amount due on the abatement cost and issue receipts at any time after the confirmation and until a list of unpaid assessments shall have been sent annually to the County Auditor for effecting collection on the tax roll at the time and in the manner of ordinary municipal taxes. The descriptions of the parcels reported shall be those used for the same parcels on the County Assessor's map books for the current year. All laws and ordinances applicable to the levy, collection and enforcement of City taxes are hereby made applicable to such special assessment and the lien of the assessment shall have priority of the taxes with which it is collected.

SEC. 4-1.66 PROCEDURE NOT EXCLUSIVE. The procedure provided in the provisions of this Article shall be cumulative and in addition to any other procedure or procedures provided in ordinances of this City or by State law for the abatement of any of the conditions described herein and abatement hereunder shall not prejudice or affect any other action, civil or criminal, for the maintenance of any such condition.

SEC. 4-1.67 IMMEDIATE DANGER, SUMMARY ABATEMENT. Whenever any condition on or use of property causes or constitutes or reasonably appears to cause or constitute a fire hazard or an imminent or immediate danger to the health or safety of the public or a significant portion thereof, the enforcement officer shall have the authority to abate the condition or cause the condition to be abated summarily and without notice. The expenses of such abatement shall become a lien on the property and be collected as provided herein.